

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TRUSTEES OF SPRINKLER FITTERS LOCAL
704 DEFINED CONTRIBUTION FUND,

Plaintiff,

v.

Case Number 11-14963
Honorable David M. Lawson

FLOW FIRE PROTECTION INCORPORATED
and MICHAEL T. WOLF,

Defendants.

/

**ORDER GRANTING IN PART PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT AND ORDERING AUDIT**

This matter is before the Court on the plaintiff's motion for default judgment against the defendants. On December 27, 2011, the clerk of court entered defaults against both defendants for failure to answer or otherwise defend against the allegations in the plaintiff's complaint. The plaintiff requests that a judgment be entered finding the defendants liable, awarding the plaintiff's costs and attorneys' fees, ordering an audit, and ordering the defendants to abide by the terms of the collective bargaining agreement.

The Court finds that the defendants "ha[ve] failed to plead or otherwise defend" this action, Federal Rule of Civil Procedure 55(a), and therefore the material allegations of the complaint are deemed admitted. However, damages have not been ascertained because of the need to conduct an audit. An audit shall be ordered to enable the Court to enter a judgment requiring the defendant to pay a sum certain, as provided by Rule 55(b). With respect to the request for an order requiring the defendants to abide by the terms of the collective bargaining agreement, the Court finds that such relief is unwarranted because the plaintiffs have an adequate remedy at law for any future violations

of the collective bargaining agreement. *See Women's Medical Professional Corp. v. Baird*, 438 F.3d 595, 602 (6th Cir. 2006).

Accordingly, it is **ORDERED** that the plaintiffs' motion for default judgment [dkt. #9] is **GRANTED IN PART** and **DENIED IN PART**.

It is further **ORDERED** that the defendants make the following documents available to an auditor appointed by the plaintiff **on or before February 9, 2012**: all of the defendants' books, records, and accounts. The audit shall be completed **on or before March 1, 2012**. When the audit is complete, the plaintiff may apply for a judgment and present proof of the amount in contributions the defendants owe to the plaintiff. The application shall be made **on or before March 15, 2012**.

The plaintiff may renew its request for attorneys' fees when it presents its supplement to the motion for judgment.

It is further **ORDERED** that the plaintiff shall serve a copy of this order on the defendants by personal service on or before **January 26, 2012**. The plaintiff shall file a certificate confirming service as provided herein.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: January 19, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 19, 2012.

s/Deborah R. Tofil
DEBORAH R. TOFIL